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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,936	03/22/2001	Wayne Morgan John	713-409	1825

7590                    11/15/2002

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[REDACTED] EXAMINER

CHEVALIER, ALICIA ANN

[REDACTED] ART UNIT      [REDACTED] PAPER NUMBER

1772

DATE MAILED: 11/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

TCJ

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/813,936	JOHN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Alicia Chevalier	1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 August 2002.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6-17 and 19-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6-17 and 19-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |                                                                                                              |                                                                              |
|--------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> . | 6) <input type="checkbox"/> Other: _____                                     |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group II, claims 6-17 and 19-34 in Paper No. 6 is acknowledged.

### ***Specification***

2. The disclosure is objected to because of the following informalities: the specification lacks section headings.

Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.

- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

#### **Content of Specification**

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet (37 CFR 1.52(b)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an

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abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-17 and 19-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "rigid" in claims 6, 20, 25 and 30 is a relative term which renders the claim indefinite. The term "rigid" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear to what degree the substrate must be rigid/stiff, i.e. is it completely inflexible.

The term "drillable areas" in claims 9-11 is unclear which renders the claims vague and indefinite. It is unclear what kind of structure element is a "drillable area," i.e. just a section on the panel that will be drilled, a hole, etc.

Claim 11 recites the limitation "drillable areas" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is believed that claim 11 should be dependent on claim 9 not claim 6, since claim 9 introduces that limitation of drillable areas.

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The phrase "the or each working surface thereof" in claims 11 and 13 is unclear which renders the claim vague and indefinite. Is Applicant trying to claim one or two work surfaces?

Claim 11 recites the limitation "working surface" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 11 is dependent on claim 6 which does not claim a working surface.

Claims 15-17, 20, 25 and 30 are indefinite because they fail to set forth the composition or structure of the substrate or coating and only claim properties of the substrate or coating. Claims that merely set forth physical characteristics desired in an article, and not setting forth specific compositions which would meet such characteristics are invalid as vague, indefinite, and functional since they cover any conceivable combination of ingredients either presently existing or which might be discovered in the future. *Ex parte Slob* (PO BdApp) 157 USPQ 172.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. It is unclear what limitations applicant are claim with regards to the weather-resistant anti-slip panel.

Claims 22, 27 and 32 are rejected under 35 U.S.C. 112, second paragraph for being in improper alternative language. Proper language for a markush group in a claim is "where in R is a material selected from the group consisting of A, B, C, and D," MPEP 2173.05.

Claim 24 recites the limitation "the weather vulnerable substrate" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is believed that claim 24 should be dependent on claim 23 not claim 20.

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Note: While the term "having" is not indefinite it is have been interpreted as open language and for purposes of examination is interpreted as meaning "comprising."

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6, 7, 9-11, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Robbins, Jr. (4,340,633).

Robbins discloses a protective mat comprising smooth mat layer with web segment of strips adhesively attached to the bottom surface of the mat layer (col. 2, lines 18-39). The web strips comprise a plurality of cleats which project from one surface of the strips that will grip the carpet and hold the mat in a desired position (col. 2, lines 34-39). The mat can be made of a variety of plastic materials such as Lucite or vinyl and are presently manufactured in a variety of shapes to accommodate different layouts (col. 2, lines 20-26). Robbins further discloses that for packaging the mats they can be attached and which is provided with severing lines in the form of perforations to facilitate separation of the roll into individual segments (col. 3, lines 3-26).

***Claim Rejections - 35 USC § 102/103***

7. Claims 15, 16, 20-22, 25-27 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Robbins, Jr. (4,340,633).

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Although Robbins does not explicitly teach the limitations of the Shore D hardness and maximum deflection it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. polymers) used to produce the slip resistant panel. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In the alternative, the claimed Shore D hardness and maximum deflection would obviously have been provided by the process disclosed by Robbins. Note *In re Best*, 195 USPQ 433, footnote 4 (CCPA 1977) as to the providing of this rejection under 35 USC 103 in addition to the rejection made above under 35 USC 102.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6, 7, 9-17, 19-22, 25-27, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiden (4,336,293) in view of Canning (5,500,267) or Robbins, Jr. (4,340,633).

Eiden discloses an anti-slip mat comprising an abrasive layer and a backing layer (figure 2). The backing layer is preferably polyvinyl chloride (col. 3, lines 43-45). The abrasive layer comprises a polyether polyurethane adhesive with abrasive grit mixed in (col. 46-51).

Eiden fails to disclose a pattern of cuttable lines.

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Canning discloses a slip resistant mat which is provided with perforation in order to separate the mats into "mini mats" so that the user can choose the length of the mat (col. 4, line 66 to line 26).

Robbins discloses a protective mat comprising smooth mat layer with web segment of strips adhesively attached to the bottom surface of the mat layer (col. 2, lines 18-39). The web strips comprise a plurality of cleats which project from one surface of the strips that will grip the carpet and hold the mat in a desired position (col. 2, lines 34-39). Robbins further discloses that for packaging the mats they can be attached and which is provided with severing lines in the form of perforations to facilitate separation of the roll into individual segments (col. 3, lines 3-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add perforation lines to the mat of Eiden as taught by either Canning or Robbins. One of ordinary skill in the art would have been motivated to add the perforation lines to Eiden's mat in order to store multiple mats together and allow the user to choose the size of the mat.

Furthermore, although Eiden does not explicitly teach the limitations of the Shore D hardness, maximum deflection, or the Polished Stone value it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. polymers) used to produce the slip resistant panel. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594.

10. Claims 6, 8-17, 19, 20, 22-25, 28-30, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Schoyck (3,921,350) in view of Canning (5,500,267) or Robbins, Jr. (4,340,633).

Van Schoyck discloses an anti-slip floor panel comprising an wood slat completely coated with an epoxy resin, where the resin comprises antiskid particles (col. 4, lines 33-42).

Van Schoyck fails to disclose a pattern of cuttable lines.

Canning discloses a slip resistant mat which is provided with perforation in order to separate the mats into "mini mats" so that the user can choose the length of the mat (col. 4, line 66 to line 26).

Robbins discloses a protective mat comprising smooth mat layer with web segment of strips adhesively attached to the bottom surface of the mat layer (col. 2, lines 18-39). The web strips comprise a plurality of cleats which project from one surface of the strips that will grip the carpet and hold the mat in a desired position (col. 2, lines 34-39). Robbins further discloses that for packaging the mats they can be attached and which is provided with severing lines in the form of perforations to facilitate separation of the roll into individual segments (col. 3, lines 3-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add perforation lines to the mat of Van Schoyck as taught by either Canning or Robbins. One of ordinary skill in the art would have been motivated to add the perforation lines to Van Schoyck's floor panel in order to store multiple panels together and allow the user to choose the size of the panel.

Furthermore, although Van Schoyck does not explicitly teach the limitations of the Shore D hardness, maximum deflection, or the Polished Stone value it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of

similar materials (i.e. polymers and wood) used to produce the slip resistant panel. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stier (4,931,330) and Phillips (3,901,993) disclose similar anti-slip panels.

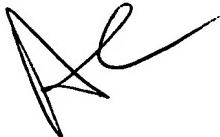
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (703) 305-1139. The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 5:00 p.m. The Examiner can also be reached on alternate Fridays

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Harold Pyon can be reached by dialing (703) 308-4251. The fax phone number for the organization official non-final papers is (703) 872-9310. The fax number for after final papers is (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose phone number is (703) 308-0661.

ac

11/13/02



*Nasser Ahmad*  
NASSER AHMAD  
PRIMARY EXAMINER

*Acting SPE*